IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO 923 of 2000
in
SPECIAL CIVIL APPLICATION NO 4776 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

FIROZKHAN HUSENKHAN TURAK (BELIM)

Versus

STATE OF GUJARAT

Appearance:
1. LETTERS PATENT APPEAL No. 923 of 2000
MR MT KIKANI for Appellant No.
MRS JYOTSNA K PATEL for Appellant No.
MR H.D.DAVE, A.G.P. for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 22/12/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

1. The Appellant - petitioner is a son of deceased Huseinkhan Mahamadkhan Belim, who died while in service as Ist Grade Head Constable on 18.11.1996. On the death of his father the appellant - petitioner had applied to the D.S.P., Junagadh, for giving him compassionate appointment by his letter dated 24.7.1997 (Annexure:A) wherein he had stated that except him there is no other earning members in his family. His Application was turned down by Additional Director General of Police (Admn.) on 29.7.1998 (Annexure : B) on the ground that family pension is Rs.1919/- and his brother's income is Rs.1200/-. Thus, in all, their family monthly income is Rs.3119/-, which is above Rs.2500/- p.m. Aggrieved by this order, he approached this Court by way of Special Civil Application No.4776 of 2000. It was dismissed by Ms.R.M.Doshit, J. Hence, this Appeal.

2. Reply Affidavit is filed in this Appeal by D.S.P. wherein it is contended that the appellant - petitioner has suppressed the fact of income of his brother and made a false statement in his Application for compassionate appointment that except him there is no earning member in his family. There is a ration card of deceased Huseinkhan which shows that his eldest son Samirkhan was staying with him and serving in Navchetan Hospital and getting the salary of Rs.1200/- p.m.

3. For seeking discretionary relief a person should come with clean hands. Admittedly, material fact is suppressed by the appellant - petitioner before the Authority as well as before this Court in a writ petition, namely, that his brother was earning. Solely on this ground the Appeal is required to be dismissed and it is dismissed, without going into merits of the case and without considering any Judgments, which are tried to be cited by learned Counsel for the Appellant.

The Appeal is dismissed. However, there shall be no order as to costs.

(B.J.Shethna, J.)
Date : December 22, 2004
(Sharad D.Dave, J.)
sas